

me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

Applies to Piper Models PA-24 and PA-24-250 aircraft S/N 24-1 through 24-3530 inclusive.

Compliance required as indicated.

To prevent fuel exhaustion caused by fuel cell collapse and loss of fuel through the tank filler caps accomplish the following:

1. Within 25 hours time in service after the effective date of this AD and every 100 hours time in service thereafter perform the following inspections:

(a) Visually inspect the main fuel cells and the auxiliary fuel cells if installed for indications of fuel cell collapse. Inspect the upper and lower fasteners of the main fuel cells and the upper fasteners of the auxiliary fuel cells which retain the bladder cells to assure security in accordance with section VIII of Piper Comanche Service Manual No. 753516 or an equivalent inspection approved by the Chief, Engineering and Manufacturing Branch, Eastern Region. The fuel cells shall be empty when performing this inspection. Also, with the tank filler caps removed, inspect the tank vent tubes under the wing for dirt or ice blockage. Apply suction to each vent tube outlet to assure that there is no blockage.

(b) Inspect all fuel cell filler caps for secureness and assure installation of proper part number cap. If the rubber portion of the "thermos" type filler caps (S/N 24-581 and up) shows indications of dryness or hardness which can cause the cap to gradually loosen, the cap must be replaced.

(c) Accomplish a fuel quantity gauge sending unit check in accordance with section VIII of Piper Comanche Service Manual No. 753516 or an equivalent inspection approved by the Chief, Engineering and Manufacturing Branch, Eastern Region.

2. Within 100 hours time in service after the effective date of this AD, unless already accomplished on aircraft S/N 24-581 through 24-3495 inclusive, alter the fuel cell drain tubes in accordance with Piper Service Bulletin No. 216 dated June 21, 1963, or an equivalent alteration approved by the Chief, Engineering and Manufacturing Branch, Eastern Region.

(Piper Service Bulletins Nos. 216 and 231A and Service Letter No. 367 pertain to this subject.)

This amendment is effective June 29, 1968.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421 and 1423)

Issued in Jamaica, N.Y., on June 20, 1968.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 68-7790; Filed, July 1, 1968;
8:46 a.m.]

[Airspace Docket No. 68-SO-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones and Transition Area

On May 10, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 7042), stating that the Federal Aviation Administra-

tion was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Biloxi, Miss., control zone and the Gulfport, Miss., control zone and transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 22, 1968, as hereinafter set forth.

In § 71.171 (33 F.R. 2058), the Biloxi, Miss., control zone is amended to read:

BILOXI, MISS.

Within a 5-mile radius of Keesler AFB (lat. 30°24'39.2" N., long. 88°55'25.9" W.); within 2 miles each side of the 036° bearing from the Keesler RBN, extending from the 5-mile radius zone to 8 miles northeast of the RBN; within 2 miles each side of the Keesler TACAN 041° radial, extending from the 5-mile radius zone to 6.5 miles northeast of the TACAN; within 2 miles each side of the Keesler TACAN 208° radial, extending from the 5-mile radius zone to 6 miles southwest of the TACAN, excluding the portion west of long. 89°00'00" W.; effective from 0600 to 2200 hours, local time daily.

In § 71.171 (33 F.R. 2058), the Gulfport, Miss., control zone is amended to read:

GULFPORT, MISS.

Within a 5-mile radius of Gulfport Municipal Airport (lat. 30°24'27.5" N., long. 89°04'05" W.); within 2 miles each side of the Gulfport VORTAC 050° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC; within 2 miles each side of the Gulfport VORTAC 129° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; within 2 miles each side of the Gulfport VORTAC 213° radial, extending from the 5-mile radius zone to 8 miles southwest of the VORTAC; within 2 miles each side of the Gulfport VORTAC 325° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC, excluding the portion that coincides with the Biloxi, Miss., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time thereafter will be continuously published in the Airman's Information Manual.

In § 71.181 (33 F.R. 2137), the Gulfport, Miss., 700-foot transition area is amended to read:

GULFPORT, MISS.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Gulfport Municipal Airport (lat. 30°24'27.5" N., long. 89°04'05" W.); within an 8-mile radius of Keesler AFB (lat. 30°24'39.2" N., long. 88°55'25.9" W.); within 2 miles each side of the 036° bearing from the Keesler RBN, extending from the 8-mile radius area to 8 miles northeast of the RBN; within 2 miles each side of the Keesler TACAN 041° radial, extending from the 8-mile radius area to 13 miles northeast of the TACAN; within 2 miles each side of the Keesler TACAN 208° radial, extending from the 8-mile radius area to 13 miles southwest of the TACAN;

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on June 19, 1968.

GORDON A. WILLIAMS, JR.,
Acting Director, Southern Region.

[F.R. Doc. 68-7791; Filed, July 1, 1968;
8:46 a.m.]

[Airspace Docket No. 67-SO-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones, Designation of Transition Areas, and Revocation of Control Area Extension

On April 18, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 5956) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the controlled airspace within the San Juan domestic control area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. August 22, 1968, as hereinafter set forth.

1. In § 71.165 (33 F.R. 2057) the San Juan, P.R., control area extension is revoked.

2. Section 71.171 (33 F.R. 2058) is amended as follows:

a. The Aguadilla, P.R., control zone is amended to read as follows:

AGUADILLA, P.R.

Within a 6-mile radius of Ramey AFB (lat. 18°29'50" N., long. 67°07'45" W.); within 2 miles each side of the 253° bearing from the Ramey RBN, extending from the 6-mile radius zone to 12 miles west of the RBN; within 2 miles each side of the ILS localizer west course, extending from the 6-mile radius zone to 11 miles west of the Airport; within 2 miles each side of the Ramey VORTAC 256° radial, extending from the 6-mile radius zone to 8 miles west of the airport.

b. The Roosevelt Roads, Puerto Rico, Control Zone is amended to read as follows:

ROOSEVELT ROADS, P.R.

Within a 5-mile radius of NS Roosevelt Roads (lat. 18°15'05" N., long. 65°38'35" W.); within 2 miles each side of the Roosevelt Roads TACAN 040° radial, extending from the 5-mile radius zone to 8 miles northeast of the TACAN; within 2 miles each side of the 052° bearing from the Roosevelt Roads RBN, extending from the 5-mile radius zone to 8 miles northeast of the RBN; within 2 miles each side of the extended centerline of the northeast/southwest runway, extending from the 5-mile radius zone to 6 miles southwest of the airport.

c. The San Juan, P.R. (International Airport) control zone is amended to read as follows:

SAN JUAN, P.R. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Puerto Rico International Airport (lat. 18°26'45" N., long. 66°00'05" W.); within a 3-mile radius of Isla

Grande Airport (lat. 18°27'30" N., long. 66°05'55" W.); within 2 miles each side of the 067° and 281° bearings from the San Pat RBN, extending from the 5-mile radius zone to 8 miles west of the RBN; within 2 miles each side of the San Juan VORTAC 058° radial, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC; within 2 miles each side of the San Juan VORTAC 086° radial, extending from the 5-mile radius zone to 11 miles east of the VORTAC; within 2 miles each side of the San Juan VORTAC 296° radial, extending from the 5-mile radius zone to 8 miles north-west of the VORTAC.

3. In § 71.181 (33 F.R. 2137) the following transition areas are added:

AGUADILLA, P.R.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Ramey AFB (lat. 18°29'50" N., long. 67°07'45" W.); within a 9-mile radius of Mayaguez Airfield (lat. 18°15'25" N., long. 67°09'09" W.); within 2 miles each side of the 263° bearing from the Mayaguez RBN, extending from the 9-mile radius area to 11 miles west of the beacon.

CHARLOTTE AMALIE, ST. THOMAS, V.I.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Harry S. Truman Airport (lat. 18°20'25" N., long. 64°58'10" W.); and that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of the Harry S. Truman Airport.

CHRISTIANSTED, ST. CROIX, V.I.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Alexander Hamilton Airport (lat. 17°42'15" N., long. 64°47'55" W.); that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of the Alexander Hamilton Airport and that airspace within 8 miles north and 5 miles south of the St. Croix VOR 069° radial extending from the 15-mile radius area to 12 miles east of the VOR.

ROOSEVELT ROADS, P.R.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of NS Roosevelt Roads (lat. 18°15'05" N., long. 65°38'35" W.), excluding the portion within the San Juan 700-foot transition area.

SAN JUAN, P.R.

That airspace extending upward from 700 feet above the surface south of lat. 18°23'00" N.; within a 20-mile radius of Puerto Rico International Airport (lat. 18°26'45" N., long. 66°00'05" W.); that airspace north of lat. 18°23'00" N. within a 12-mile radius of Puerto Rico International Airport; within 2 miles each side of the San Juan VORTAC 273° radial, extending from the 12-mile radius area to the San Juan (SJU) RBN; within 2 miles each side of the 281° bearing from the San Pat RBN, extending from the 12-mile radius area to the San Juan (SJU) RBN; within 8 miles north and 5 miles south of the 281° bearing from the San Pat RBN, extending from the 12-mile radius area to 12 miles west of the San Pat RBN; and that airspace extending upward from 1,200 feet above the surface beginning at the intersection of a line 4 nautical miles north of and parallel to the centerline of Route 2 and the arc of a 41-mile radius circle centered at Puerto Rico International Airport west of San Juan VORTAC; thence clockwise along this arc to the centerline of Route 3; thence southeast along the centerline of Route 3 to the arc of a 23-mile radius circle centered at Puerto Rico International Airport; thence clockwise along this arc to long. 65°55'00"

W.; thence south to lat. 18°40'00" N., long. 65°55'00" W.; thence east to lat. 18°40'00" N., long. 65°26'00" W.; thence south along long. 65°26'00" W. to a line 4 nautical miles north of and parallel to the centerline of Route 2; thence east and southeast along this line to the arc of a 15-mile radius circle centered at Harry S. Truman Airport (lat. 18°20'25" N., long. 64°58'10" W.); thence counterclockwise along this arc to a line 3 nautical miles southwest of and parallel to the centerline of Route 2; thence northwest and west along this line to long. 65°26'00" W.; thence south along long. 65°26'00" W. to the arc of a 15-mile radius circle centered at NS Roosevelt Roads Airport (lat. 18°15'05" N., long. 65°38'35" W.); thence clockwise along this arc to the intersection of a line 5 miles southeast of and parallel to the 052° bearing from the Point Tuna RBN; thence southwest along this line to lat. 18°00'00" N.; thence west along lat. 18°00'00" N., to long. 66°19'20" W.; thence south to lat. 17°49'30" N., long. 66°23'30" W.; thence west to the intersection of long. 66°25'30" W. and the arc of a 15-mile radius circle centered at Mercedita Airport (lat. 18°00'40" N., long. 66°33'50" W.); thence clockwise along this arc to lat. 18°00'00" N.; thence west to lat. 18°07'00" N., long. 67°22'00" W.; thence north to the intersection of long. 67°23'00" W. and the arc of a 25-mile radius circle centered at Ramey AFB (lat. 18°29'50" N., long. 67°07'45" W.); thence clockwise along this arc to a line 4 nautical miles north of and parallel to the centerline of Route 2 east of Ramey AFB; thence east along this line to the point of beginning; and that airspace extending upward from 2,000 feet MSL within a 100 nautical mile radius of the Isla Grande Airport (lat. 18°27'30" N., long. 66°05'55" W.) San Juan, P.R., excluding the portion that coincides with the 1,200-foot floor portions of the San Juan, St. Croix, and St. Thomas transition areas.

(Secs. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1343, 1510); Executive Order 10854 (24 F.R. 9565))

Issued in Washington, D.C., on June 24, 1968.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[F.R. Doc. 68-7792; Filed, July 1, 1968;
8:46 a.m.]

[Docket No. 8153; Amdt. 137-3]

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

Miscellaneous Amendments

The purpose of this amendment to Part 137 of the Federal Aviation Regulations is to modify the definition of agricultural aircraft operation; to relax the requirement regarding carriage in the aircraft of airworthiness and registration certificates; to change the title of § 137.37 to reflect the proper meaning of that section; and to restrict operations over noncongested areas to the actual dispensing operation.

This amendment is based upon a notice of proposed rule making (Notice 67-20) published in the FEDERAL REGISTER on May 12, 1967 (32 F.R. 7183).

Part 137 requires a person to have an agricultural aircraft operator certificate to conduct agricultural aircraft operations. The definition of agricultural air-

craft operation as presently worded in § 137.3 limits the meaning of the term to the dispensing of economic poison and any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control, but clause (3) of the definition does not limit the other activities covered to dispensing operations.

The specialized experience, training, and testing required to assure safety in dispensing material from an aircraft is not required, in the interest of safety, of a person who wishes to conduct activities which do not involve any dispensing of materials, such as bird chasing and antifrost agitation of the air. The same considerations apply in the case of a person who drops live insects for pest control purposes, to the extent that the dispensing of economic poisons or other substances is not involved.

Accordingly, this amendment to clause (3) of § 137.3 limits other activities directly affecting agriculture, horticulture, or forest preservation to those involving dispensing and expressly excludes the dropping of live insects as a dispensing activity. This permits persons other than Part 137 certificate holders to conduct nondispensing type agricultural activities without an agricultural aircraft operator certificate if, where appropriate, they obtain a waiver from the provisions of FAR Part 91. On the other hand, the holder of an agricultural aircraft operator certificate, by virtue of the certificate, has demonstrated his ability to safely conduct nondispensing operations as well as dispensing operations. For this reason, paragraph (c) is added to § 137.29 by this amendment to permit a Part 137 certificate holder to deviate from FAR Part 91 to the extent authorized for dispensing operations by Part 137, without obtaining a certificate of waiver, when conducting certain nondispensing activities in accordance with the operating rules of Part 137.

The notice recognized that as a result of the chemical properties of certain materials dispensed from aircraft and the frequent cleaning of aircraft to remove the residue of chemicals, the airworthiness and registration certificates, which must be permanently displayed in the aircraft, often are damaged and must be replaced with new certificates obtained from the FAA. This creates a burden on both the owner and the FAA. As proposed in the notice, this amendment permits the airworthiness and registration certificate to be removed from the aircraft. When any airworthiness or registration certificate is removed from an aircraft, it must be kept at the base from which the dispensing operation is conducted and available for inspection by appropriate authorities. For the purpose of this amendment, the base from which the dispensing operation is conducted is intended to mean the permanent base of the operator, unless dispensing operations are being conducted from a temporary base where the operator has temporarily stationed maintenance facilities and personnel. If such a temporary base is established, it is the intent of the amendment that such base be considered

the base from which the dispensing operation is conducted and, therefore, the place where the certificates removed from the aircraft must be kept and made available for inspection by appropriate authorities.

This amendment changes the title to § 137.37 to read "Manner of Dispensing" so that it will more accurately reflect the purpose of that section.

Section 137.49 is also amended to clearly reflect that it covers only the actual dispensing operation, but includes the approaches, departures, and turnarounds reasonably necessary for the operation. In addition, this amendment deletes § 137.13 and references to it, since the section is no longer applicable.

Finally, there is the matter of § 137.39 which presently prohibits, in part, the dispensing of an economic poison for a use other than that for which it is registered with the U.S. Department of Agriculture (USDA). Notice 67-20 proposed to amend § 137.39 to permit the dispensing of a USDA registered economic poison for other than registered uses when approved by the State in which it is to be used.

However, by letter dated February 21, 1968, the Assistant Secretary, U.S. Department of Agriculture requested that FAA withdraw the proposed amendment to § 137.39. The following excerpts from that letter explain the reasons for the USDA request:

We have again reviewed the notice of proposed rule making concerning agricultural aircraft operations published in the *FEDERAL REGISTER* on May 12, 1967, which would permit the dispensing of an economic poison for a purpose other than that for which it was registered with the U.S. Department of Agriculture or contrary to use limitations. After further consideration, we are concerned about the serious problems in administering the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135-135K), which would result from the enactment of this proposal.

This amendment would hamper our enforcement activities.

... one effect of the proposed amendment to § 137.39 would be that a manufacturer could ship a registered economic poison into a State for a use entirely consistent with the proposed amendment and yet violate the criminal provision of the Federal Insecticide, Fungicide, and Rodenticide Act if the intended use differed in substance from that accepted in connection with the registration.

... Section 137.39 could be construed as condoning a use which we believe to be improper under our Act and regulations.

It is conceivable that some States may not have the technical competence to evaluate the safety of an economic poison that has not been registered with the U.S. Department of Agriculture, particularly in regard to residues in food. This could lead to seizure and condemnation of the crops shipped in interstate commerce.

Although our letter of October 12, 1966, does not support our present views, we hope you will give serious consideration to withdrawing § 137.39 of the notice of proposed rule making. The Federal Aviation Administration's regulations now in effect provide the States with adequate control measures. In the past, delays in registration may have pre-

sented a problem to the States in cases of emergency situations, but this should no longer be considered an obstacle since the Department is now prepared to handle such matters on an emergency basis.

Accordingly, in response to the foregoing request of the Assistant Secretary of the U.S. Department of Agriculture, the proposal published in Notice 67-20 to amend FAR 137.39 is hereby withdrawn.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all comments received.

In consideration of the foregoing, Part 137 of the Federal Aviation Regulations is amended, effective August 1, 1968, as follows:

1. By amending subparagraph (3) of the definition of Agricultural Aircraft Operation in § 137.3 to read as follows:

§ 137.3 Definition of terms.

... (3) engaging in dispensing activities directly affecting agriculture, horticulture, or forest preservation, but not including the dispensing of live insects.

§ 137.11 [Amended]

2. By striking out the words "§ 137.13 and" in § 137.11(a).

§ 137.13 [Deleted]

3. By deleting § 137.13.
4. By adding a new paragraph (c) to § 137.29 to read as follows:

§ 137.29 General.

(c) The holder of an agricultural aircraft operator certificate may deviate from the provisions of Part 91 of this chapter without a certificate of waiver, as authorized in this subpart for dispensing operations, when conducting nondispensing aerial work operations related to agriculture, horticulture, or forest preservation in accordance with the operating rules of this subpart.

5. By amending § 137.33 by designating the provisions of that section as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 137.33 Carrying of certificates.

(b) Notwithstanding Part 91 of this chapter, the registration and airworthiness certificates issued for the aircraft need not be carried in the aircraft. However, when those certificates are not carried in the aircraft they shall be kept available for inspection at the base from which the dispensing operation is conducted.

§ 137.37 [Amended]

6. By striking out the word "hazardous" in the title of § 137.37 and inserting the words "manner of" in place thereof.

7. By amending § 137.49 to read as follows:

§ 137.49 Operations over other than congested areas.

Notwithstanding Part 91 of this chapter, during the actual dispensing operation, including approaches, departures, and turnarounds reasonably necessary for the operation, an aircraft may be operated over other than congested areas below 500 feet above the surface and closer than 500 feet to persons, vessels, vehicles, and structures, if the operations are conducted without creating a hazard to persons or property on the surface.

(Secs. 307(c), 313(a), 601, 607, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421, 1427)

Issued in Washington, D.C., on June 26, 1968.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 68-7793; Filed, July 1, 1968; 8:47 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[11th Gen. Rev. of Export Regs., Amdt. 3]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Parts 370, 371, 372, and 373 of the Code of Federal Regulations are amended as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-63 Comp.)

Effective date: June 26, 1968.

RAUER H. MEYER,
Director, Office of Export Control.

I. Revision of the requirement of an export order in support of an application for an export license. Purpose and effect: The Office of Export Control has revised the Export Regulations as they relate to the provisions requiring an export order in support of an application for an export license. In addition to a clarification and redefinition of the term "order" as used in the Export Regulations, the provisions for requesting a waiver of the required order have been amplified and explained in greater detail. Further, the willingness of the Office of Export Control to provide, in advance of submission of an application, a preliminary opinion as to the outlook for approval of a license or other export control action has been set forth in the Export Regulations.

An order, for purposes of the Export Regulations, is defined as a communication from a person abroad or his representative expressing an intent to import commodities or technical data from the proposed U.S. exporter or a U.S. order party.

An order need not necessarily be an unconditional offer to buy which, if accepted by either the proposed exporter or the order party, results in a binding contract. Moreover, although the order must be more than a mere inquiry regarding a possible export, it may be contingent upon variable conditions. These conditions may include market price, time of delivery, or availability of the commodities in the kinds and quantities desired. Such a contingent offer is still considered an order under the Export Regulations. If, however, all of the terms of an order are not finally determined, before an application is submitted all negotiations toward the settlement of the terms must have been advanced sufficiently to establish the intent of the person placing the order to consummate the proposed transaction.

The Export Regulations have been further clarified to point out specifically that the order requirement is also applicable to a request for authorization to reexport U.S. origin commodities or technical data to certain specified destinations.

The provisions regarding exceptions to the order requirement have also been explained more fully. The Office of Export Control will consider granting an exception to, or a waiver of, the order requirement in cases where the applicant shows that an exception is warranted. A request for waiver of the order requirement shall accompany an application for an export license, and shall state in full the reasons for the request. Whenever possible, all supporting documentation must be obtained and submitted with the request for waiver of the export order. If it is not possible to obtain such documentation at the time the waiver request is submitted, these supporting documents shall, nevertheless, be submitted as soon as they are obtainable. The following are examples which, if fully substantiated, might warrant an exception:

1. An unusual expenditure of time, money, or technical skill, in excess of ordinary sales expenses, is necessary before a bid can be submitted and an order obtained.

2. The applicant is under an unusual obligation to export immediately the commodities or technical data covered, because of a special trade or industry practice.

3. The export involves a sample, gift, relief or charitable shipment, or other shipment where an order is not normally an element of the export transaction.

Regardless of whether an order was obtained prior to applying for an export license, exporters are reminded that any validated or general license or other authorization to export or reexport may be revised, suspended, or revoked at any time without notice; e.g., whenever this is necessary to prevent an unauthorized export or reexport. If a shipment is already en route, it may further be necessary to order the return or unloading of such shipment at any port of call.

Exporters are also reminded that an application for a Periodic Requirements (PRL) License or a Time Limit (TL)

License does not require the support of an export order. An exporter eligible to apply under either of these bulk license procedures, is advised to do so rather than to request an exception to the requirement of an order in support of an application for an individual license. (See Parts 376 and 377 of the Code of Federal Regulations.)

The Office of Export Control issues a formal licensing decision respecting a specific license application or other request for an export control action only by means of a license or other document. Such decisions are issued only on the basis of the actual submission of a formal application or other formal request setting forth all of the facts relevant to the export transaction and supported by all required documentation. Upon request, however, the Office of Export Control will, to the extent practicable, provide a preliminary opinion regarding the outlook for approval of a prospective transaction. If the negotiation of the terms of an export order depends upon an indication of the prospects of obtaining an export license, the person proposing the export may submit an inquiry, prior to the submission of an application for an export license, explaining the proposed transaction in full detail and explaining why advance indication of the Office of Export Control action is needed. To the extent feasible, the Office of Export Control will discuss with the prospective applicant the outlook for approval of the proposed export.

Accordingly, §§ 370.2(c), 372.4(f) (1), (2), and (3), 372.5(j) (5), and 372.12(c) (2) (ii) (c) of the Export Regulations are revised as set forth below:

PART 370—SCOPE OF EXPORT CONTROL BY DEPARTMENT OF COMMERCE

Paragraph (c) of § 370.2 is revised to read as follows:

§ 370.2 Prohibited exports.

(c) *Revocation of export licenses and other authorizations.* All export licenses and other authorizations to export or reexport are subject to revision, suspension, or revocation without notice. It may be necessary for the Office of Export Control to stop a shipment or an export transaction at any stage of its progress; e.g., in order to prevent an unauthorized export or reexport. If a shipment is already en route, it may be further necessary to order the return or unloading of such shipment at any port of call in accordance with the provisions set forth in § 379.11 of this chapter.

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

1. Paragraph (f) (1), (2), and (3) of § 372.4 is revised to read as follows:

§ 372.4 Applications for validated licenses.

(f) *Substantiation of representations made in license application—*(1) *Orders and substantiation of other material facts.* Except as provided in subparagraph (3) of this paragraph, or except in connection with the submission of an application for a Time Limit License or a Periodic Requirements License, no application for an export license and no request for reexport authorization subject to the provisions of § 372.12(c) (2), shall be made unless and until the applicant has, supported by documentary evidence in his possession, or in the possession of the order party (as defined in paragraph (a) (2) of this section) who signs the application in accordance with the requirements of paragraph (a) (2) of this section:

(i) An order for export for the commodities or technical data covered by the application. If the applicant for the export license is not the person who conducted the direct negotiations or correspondence relative to the order with the ultimate consignee or foreign purchaser, as designated in the application for export license, and did not receive the order from the ultimate consignee or foreign purchaser, the application must be completed in accordance with paragraph (a) (2) of this section.

(2) *Definitions—*(i) *Order.* "Order", used in this Part 372, means a communication from a person in a foreign country or his representative expressing an intent to import commodities or technical data from the proposed U.S. exporter or order party as defined in paragraph (a) (2) of this section. While an order must, in any case, be more than a mere business inquiry relating to a possible export, it need not be an agreement that can presently be executed or that would become a binding contract upon acceptance. Furthermore, an order need not be an unconditional offer to buy. An order, for instance, may be contingent upon certain variable conditions such as market price, time of delivery, availability of the commodities in kinds and quantities desired, and other undetermined factors. Such a contingent offer still constitutes an order within the meaning of these provisions. Similarly, a continuing or "open" order that remains at all times flexible in some respects may be acceptable. If, however, all of the terms of the order are not finally determined, before an application is submitted all negotiations toward the settlement of the terms must have been advanced sufficiently to establish the intent of the person placing the order to consummate the proposed transaction.

(ii) *Evidence of an order.* Evidence of an order as used herein means any document or documents emanating from the foreign purchaser which set forth the terms and conditions of his offer to buy the materials or articles for which the export license is requested. Such evidence may take the form of a contract signed by both parties, or of letters, telegrams, cables, confirmations, or other documents which set forth in definite terms the offer of the foreign purchaser to buy or the acceptance by the foreign purchaser of the exporter's offer to sell.

(iii) *Evidence of facts relating to the purchase transaction.* Evidence of the facts relating to the purchase transaction means any documents emanating from the purchaser or ultimate consignee which relate to statements in the application enumerated in subparagraph (1) of this paragraph. Such evidence may be contained in the document or documents constituting evidence of the order, or in additional documents emanating from the purchaser or ultimate consignee. The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on his letterhead or order form shall not constitute evidence of either his identity, the country of ultimate destination, or end use of the commodities described in the application.

(iv) *Order from foreign agent.* An order from the foreign agent of the U.S. exporter does not qualify as a proper order under this requirement where it is based on an order in the agent's hands from a specific purchaser. The regulations require that in such cases the purchaser's order must be transmitted to the U.S. exporter. However, an order from the foreign agent of the exporter would be acceptable if the goods are intended for general resale to presently unknown end users.

(3) *Export transactions where no order has been received.*—(i) *Exceptions to the order requirement.* (a) If no order has been received, or if an inquiry has been received which does not clearly meet the requirements of an order as defined in subparagraph (2)(i) of this paragraph, the Office of Export Control will consider granting a request for an exception to, or a waiver of, the order requirement where the applicant is able to show that an exception is warranted. The request for an exception to the order requirement shall accompany the application for an export license, and shall explain fully why an exception is warranted. Whenever possible, all required supporting documentation must be obtained and submitted with the request for waiver of the export order. If it is not possible to obtain such documentation at the time the waiver request is submitted, these supporting documents shall, nevertheless, be submitted as soon as they are obtainable.

(b) An exporter eligible to apply for a Periodic Requirements (PRL) License or a Time Limit (TL) License is advised to do so rather than request an exception to the requirement of an order in support of an individual license application. An order is not required in support of an application for a Periodic Requirements License or a Time Limit License. (See Parts 376 and 377 of this chapter.)

(c) If such license application is approved, the license issued may include certain conditions precedent to, or impose certain limitations on, exports made under the license.

NOTE: The following are examples of reasons which, if fully substantiated, might warrant an exception:

1. An unusual expenditure of time, money, or technical skill, in excess of ordinary sales

expenses, is necessary before negotiations for an order may be pursued and before a bid can be submitted or an order obtained.

2. The applicant is under an unusual obligation to export immediately the commodities or technical data covered, because of a special trade or industry practice.

3. The export involves a sample, gift, relief, or charitable shipment, or other shipment where an order is not normally an element of the export transaction.

(ii) *Inquiry regarding prospects of obtaining license or other authorization.* The Office of Export Control gives a formal decision respecting a specific license application or other request for an export control action only through the issuance of a license or other document based upon the actual submission of a formal application or other formal request setting forth all of the facts relevant to the export transaction and supported by all required documentation. (See § 372.5(j)(5).) Upon request, however, the Office of Export Control will, to the extent practicable, provide a preliminary opinion regarding the outlook for approval of a prospective transaction with respect to particular commodities and destinations. If the negotiations of the terms of an export order depend upon an indication of the prospects of obtaining an export license covering the transaction, the person proposing to export may submit an inquiry, prior to the submission of an application for an export license, describing the proposed transaction in full detail and explaining why an advisory opinion of the Office of Export Control regarding the transaction is needed in advance. To the extent feasible, the Office of Export Control will discuss with the prospective applicant the outlook for approval of the proposed export.

2. Paragraph (j)(5) of § 372.5 is revised to read as follows:

§ 372.5 How to file an application for a validated license.

(j) * * *

(5) *Decisions given on application or request only.* (i) The Office of Export Control gives a formal decision regarding a specific license application or other request for an export control action only through the issuance of a license or other document based upon the actual submission of a formal application or other formal request setting forth all of the facts relevant to the export transaction and supported by all required documentation.

(ii) If unusual circumstances exist which any person believes warrant an exception to this rule, he may submit a request for an exception to the Office of Export Control, describing the proposed transaction in full detail and explaining why an advisory opinion of the Office of Export Control respecting the proposed export is needed in advance of the submission of a license application. To the extent feasible, the Office of Export Control will endeavor to discuss with the person requesting an exception the outlook for approval of the proposed export.

3. Paragraph (c)(2)(ii)(c) of § 372.12 is revised to read as follows:

§ 372.12 Reexport.

(c) * * *

(2) * * *

(ii) * * *

(c) Consignee/purchaser statement or other documentation from the new ultimate consignee which would be required by Part 373 of this chapter if the reexport were a direct export from the United States to the new country. Where this document is a Yugoslav End-Use Certificate or a Swiss Blue Import Certificate, and the same document must be furnished to the export control authorities of the country from which reexport will be made, the Office of Export Control will accept a reproduced copy of the document being furnished to the country of reexport. The order requirements of § 372.4(f) also apply to these reexports. If the required documentation or order cannot be obtained, waiver may be requested in accordance with the applicable provisions of the Export Regulations. (See § 373.65(b)(6) of this chapter for waiver of a Consignee/Purchaser Statement; § 373.2(j) of this chapter for waiver of an Import Certificate; § 373.67(d) of this chapter for waiver of a Swiss Blue Import Certificate; and § 373.70(d) of this chapter for waiver of a Yugoslav End-Use Certificate.)

PART 371—GENERAL LICENSES

II. *Prohibited shipments under general license provisions.* Purpose and effect: The Export Regulations have been revised to emphasize that no general license may be used to export commodities that are not listed on the Commodity Control List. Generally, when commodities are not on the Commodity Control List, they come under the export jurisdiction of a Federal Government agency other than the Department of Commerce, as described in § 370.5 of the Export Regulations.

Accordingly, § 371.2(c)(1) of the Export Regulations is amended to read as set forth below.

In § 371.2 paragraph (c)(1) is revised to read as follows:

§ 371.2 General provisions.

(c) *Applicability.*—(1) *Prohibited shipments.* No general license set forth in this Part 371 or in Part 385 of this chapter may be used to effect an export of:

(i) Commodities and/or technical data to a destination for which such license has been suspended or revoked;

(ii) Commodities and/or technical data that will be unladen from a vessel or aircraft in Country Group Y or Z or that will move in transit through Country Group Y or Z en route to another country, except as provided by § 370.10 of this chapter; or

(iii) Commodities that are not listed on the Commodity Control List, § 399.1 of this chapter.

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

III. *Additional country adhering to limited nuclear test ban treaty.* Purpose and effect: Section 373.7 of the Export Regulations sets forth the procedures to be followed when exporting commodities and technical data related to nuclear weapons, nuclear explosive devices, or nuclear testing. Certain provisions of these regulations do not apply to countries that are adherents to the Limited Nuclear Test Ban Treaty. A list of countries adhering to this treaty is set forth in Supplement No. 4 to Part 373 of the Export Regulations.

The country of Botswana on March 4, 1968, notified the U.S. Department of State that it considers itself unrestrictedly bound by the prior ratification of the treaty by the United Kingdom. Consequently, Botswana is now added to the list of countries adhering to the Limited Nuclear Test Ban Treaty.

Accordingly Supplement No. 4 to Part 373 of the Export Regulations is amended as set forth below.

Supplement 4—Countries Adhering to the Limited Nuclear Test Ban Treaty is amended by adding "Botswana".

[F.R. Doc. 68-7810; Filed, July 1, 1968; 8:48 a.m.]

[11th Gen. Rev. of Export Regs., Amdt. 1]

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

PART 385—EXPORTS OF TECHNICAL DATA

Miscellaneous Amendments

Parts 373 and 385 of the Code of Federal Regulations are amended as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-63 Comp.)

Effective date: May 10, 1968.

RAUER H. MEYER,
Director, Office of Export Control.

1. Section 373.9 is hereby added to read as follows:

§ 373.9 Samples exported to Country Groups W and Y.

(a) *Scope.* (1) In considering an application for a license to export, or a request for authorization to reexport, a sample of the commodities described in paragraph (b) of this section to Country Groups W and Y, the Office of Export Control usually considers concurrently the question of whether a commercial quantity of the commodity to be shipped as a sample could also be approved. In many cases the latter question requires an extensive and time-consuming review. As a result, there may be a considerable delay in reaching a decision. To avoid this delay where it is not essential to have an advance indication of whether a commercial quantity of the sample commodity would be approved, this § 373.9 provides a procedure to permit

an exporter to apply to the Office of Export Control for a license to export, or for authorization to reexport, such samples without the usual review to determine whether a commercial quantity of the commodity sent as a sample could also be approved.

(2) Neither a license to export nor an authorization to reexport a sample under this procedure implies that the Office of Export Control intends, or is committed, to approve an application for a license to export any quantity of the commodity sent as a sample. All persons sending a sample under this procedure are therefore advised to include in any contract to sell the commodity a provision relieving themselves of liability in the event that an export license is not approved by the Office of Export Control. The sample procedure does not apply if an indication is requested of the prospects of approval of an application for a license to export a commercial quantity of the sample commodity. Again, however, it must be emphasized that an indication of the prospects of approval of an application for a license does not imply that the Office of Export Control is committed to approve an application.

(b) *Applicability.* The provisions set forth in this § 373.9 apply to applications for licenses to export, and requests for authorizations to reexport, to Country Group W or Y any sample of a commodity in any of the categories listed in subparagraphs (1) through (5) of this paragraph valued at no more than two hundred dollars (\$200.00); provided further that the sample is sent in accordance with established business practices and is sent either without charge or at no more than the usual charge.

(1) Chemicals, drugs, and pharmaceuticals;

(2) Synthetic rubber;

(3) Petroleum and petroleum products;

(4) Lubricants, additives, and operational fluids; or

(5) Metals and minerals.

(c) *Definition.* As used in this § 373.9, a sample is defined as a small quantity of a commodity to be sent to a prospective purchaser for his examination, evaluation, or comparison in deciding upon subsequent orders for commercial quantities.

(d) *Application or letter of request.*

(1) An applicant for a license to export a sample described above who wishes to request action on the proposed sample under this procedure without consideration of possible future commercial quantity shipments shall enter across the top of each application for a license, Form FC-419, the word "Sample" immediately over the printed words "United States of America." A person requesting similar authorization to reexport a sample shall similarly enter the word "Sample" across the top of his letter of request.

(2) The value of the sample shall be indicated in each reexport request. The value shall be indicated in the space provided for the commodity description on each license application if the value is not the same as the selling price.

(3) A license to export, or an authorization to reexport, a sample under this procedure will be accompanied by a written notice that the license or other authorization is not a commitment by the Office of Export Control to approve a future export license application or request for authorization to reexport a commercial quantity of the approved sample. The notice will caution all persons sending samples under this procedure to include in any contracts for the sale of such commodities, a provision relieving themselves of liability in the event that authorization for an export or re-export of a commercial quantity of the sample commodity is not granted.

(4) If an indication of the prospects of approval of a commercial quantity of the commodity sent as a sample is desired prior to exporting or reexporting the sample, this information must be requested specifically. The proposed commercial transaction should be described in full detail, giving the quantities, values, end-uses, and all other information normally required by the Office of Export Control in considering an export license. The Office of Export Control will indicate in advance the prospects of approval of a license application only upon receiving a specific request for this information showing that the request is clearly warranted. In no case, however, does an indication of the prospects of approval of a license application constitute a commitment by the Office of Export Control to take the action indicated. Obviously, changing circumstances may require a different action at the time an application is actually submitted.

(e) *Statement by exporter.* An application for a license to export, or a request for authorization to reexport, a sample described above shall include immediately after the commodity description the following statement:

The commodity described above is a sample sent without charge or at no more than our usual price for examination, evaluation, or comparison by a prospective purchaser.

(f) *Decision by the Office of Export Control.* The Office of Export Control will render its decision regarding the export or reexport of a sample as promptly as possible, regardless of whether expedited action is requested under this § 373.9. In some cases, however, the Office of Export Control may find that it is unable to avoid extended deliberation resulting in a delayed decision. Such extended deliberation is usually necessary when the sample:

(1) Is not a commodity within any of the categories set forth in paragraph (b) of this section;

(2) Is valued in excess of \$200;

(3) Is identified by the symbol "A" in the last column of the Commodity Control List;

(4) Contains or incorporates unique or advanced extractable technical data that would make a significant contribution to the military or economic potential of the country of destination to the detriment of the national security and welfare of the United States; or